IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 11.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.614 of 2006

Saroja ... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and
District Collector,
Tiruvarur District,
Tiruvarur. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to produce the petitioner's husband the detenu Thillai Kannu S/o Pakkiri, aged 43 years, before this Court and now confined in Central Prison, Thiruchirapalli and set him at liberty and to call for the records pertaining to the order of detention passed in C.O.C.No.12/2006 dated 15.06.2006 passed by the second respondent and set aside the same.

For Petitioner : Mr.T.Muruganantham
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, who is the wife of the detenu, by name Thillaikannu, who is detained as a ''Bootlegger" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 15.06.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

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3. At the foremost, the learned counsel appearing for the petitioner, by drawing our attention to the discrepancy in paragraph 3, particularly, with reference to the conduct of the Inspector of Police - the sponsoring authority in arresting the accused at 10.00 hours and again visiting the place of occurrence at 10.15 hours and preparing the observation mahazar and rough sketch, pointed out that this will lead to a conclusion that there is no intimation to the detenu, which prevented him in making an effective representation.

4. In the light of the said contention, we have verified the details available in paragraph 3 of the grounds of detention as well as the relevant documents in the paper book supplied to the detenu. As rightly pointed out by the learned counsel for the petitioner, the complaint was received by the Muthupettai Police Station at 9.00 a.m., and after recording the same, it is seen that the Inspector of police arrested the accused at 10.00 hours and also recorded his confession statement at the same time at 10 hours in the presence of two witnesses. While so, in the latter part of the same paragraph, the detaining authority has proceeded to state that the Inspector of Police visited the place of occurrence at 10.15 hours and prepared the observation mahazar and rough sketch in the presence of the said witnesses. In the absence of proper explanation by the person concerned, we are of the view that the detenu was unable to make an effective representation questioning the order of detention. Even before us, the narration of facts as found in paragraph 3 of the grounds of detention has not been properly highlighted. In such circumstances, we accept the contention raised by the learned counsel for the petitioner and we are satisfied that because of the same, the detenu was prevented in making an effective representation, which vitiates the ultimate detention order passed by the detaining authority.

5. It is also brought to our notice that even though the occurrence took place on 25.05.2006, even according to the learned Additional Public Prosecutor, the contraband material recovered was produced before the Court only on 31.05.2006, i.e., after six days, which also goes to the very root of the matter. On these grounds, we quash the impugned order of detention.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. The Secretary to Government,
State of Tamil Nadu, Prohibition
and Excise Department,
Fort St. George, Chennai-600 009.

2. The District Magistrate and District Collector,
Thiruvarur District,
Thiruvarur.

3. The Superintendent, Central Prison,
Thiruchirapalli.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 cc to Mr.T.Muruganantham, Advocate, Sr. 42282

HCP. No.614 of 2006

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